the right of action is regarded as if it were that of the deceased, and recovery is allowed in spite of the beneficiary's contributory negligence. *Warren* v. *Manchester St. Ry.*, 70 N. H. 352, 47 Atl. 735; *Wymore* v. *Mahaska Co.*, 78 Ia. 396. The decision of the principal case settles the New York law, which had previously been in an uncertain state, in favor of recovery by the negligent beneficiary. On theory the recovery is essentially a compensation to the next of kin, the interposition of the administrator being a mere matter of procedure. This is further illustrated by the refusal to allow one not dependent on the deceased to recover under the federal statute. See 27 HARV. L. REV. 87. To allow this recovery when the beneficiary has been guilty of contributory negligence is to compensate him at the expense of his co-tortfeasor. See 21 HARV. L. REV. 636.

FEDERAL COURTS — JURISDICTION AND POWERS IN GENERAL — JURISDICTION WHERE STATE COURT INTERPRETS FEDERAL STATUTES TOO BROADLY. — The plaintiff as administratrix sued the defendant company for damages occasioned by the death of her husband while in its service, relying upon the federal "Hours of Service Act" and "Employer's Liability Law." The defendant requested a verdict directed in its favor, which was refused. A judgment for the plaintiff was affirmed by the Supreme Court of Kentucky. 145 Ky. 427, 140 S. W. 672. The defendant now seeks a writ of error from the United States Supreme Court. *Held*, that the Supreme Court has jurisdiction. *St. Louis, I. M. & S. R. Co.* v. *McWhirter*, 33 Sup. Ct. 858.

When an action is begun in a federal court the case may be taken directly to the Supreme Court upon any constitutional question, irrespective of the lower court's decision. Act of March 3, 1891, c. 517, § 5; 26 STAT. AT LARGE, 828. But a writ of error to a state court can only be had when a party claims and is denied some federal right. U. S. REV. STAT. § 709; U. S. COMP. STAT. 1901, 575; JUDICIAL CODE, § 237. The original purpose of allowing the Supreme Court this power of review was to prevent impairment of federal authority. See *Commonwealth Bank of Ky.* v. *Griffith*, 14 Peters (U. S.), 56, 58. Where the federal right is sustained, there is no necessity for review upon this score, and it was felt that to allow either party to appeal might put too much power in the hands of the federal courts. *Gordon* v. *Caldcleugh*, 3 Cranch (U. S.), 268; *Missouri* v. *Andriano*, 138 U. S. 496. See *Hale* v. *Gaines*, 22 Howard (U. S.), 144, 160. But fear of encroachment on state power by federal courts is now past. Indeed it has been felt desirable that legislation be enacted giving both parties the right to come before the Supreme Court on a federal question, in order to secure prompt and uniform construction of federal statutes. See PROCEEDINGS OF AMERICAN BAR ASSOCIATION, 1911, 462, 469. The serious objection to the proposal is the consequent addition to the work of an already over-burdened Supreme Court. See PROCEEDINGS OF AMERICAN BAR ASSOCIATION, *supra*, 482. To justify the decision in the principal case, the statute involved would have to be said to give or secure rights to both parties. Language, in previous cases, might lay a foundation for the construction that each party has a right to have his rights under the statute construed by the Supreme Court. *Seaboard Air Line Ry.* v. *Duvall*, 225 U. S. 477, 486, 32 Sup. Ct. 790; *St. Louis, I. M. & S. R. Co.* v. *Taylor*, 210 U. S. 281, 293, 28 Sup. Ct. 616. This seems hardly a permissible construction in the light of the above cases, especially as the defendant claimed the benefit of no exception or proviso.

HISTORY OF LAW — PROCEDURE AND COURTS — RIGHT OF COURT TO HEAR NULLITY SUIT IN CAMERA. — A proceeding to nullify a marriage on the ground of the husband's impotence was heard in camera by order of the judge. Later the wife to protect her reputation secured transcripts of the evidence given and